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RAISING YOUR BILLING RATES: WHEN AND HOW TO DO IT

By Edward Poll



Edward Poll

MCLE GENERAL

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EVERYONE IN THE LEGAL PROFESSION KNOWS BY NOW THAT ANNUAL SALARIES FOR FIRST-YEAR ASSOCIATES HAVE RECENTLY SHOT UP FROM \$80,000 ON AVERAGE TO MORE THAN \$125,000—A WHOPPING 50 PERCENT INCREASE IN ONE BIG JUMP. WHILE THAT MAY BE GREAT NEWS FOR THE NEW LAWYERS, HOW ARE THE LAW FIRMS GOING TO PAY FOR THESE INCREASED COSTS? THE EARLIER PANIC SEEMS TO HAVE SETTLED INTO MERE BEWILDERMENT AT THIS POINT, BUT FIRM MANAGERS ARE STILL SHAKING THEIR HEADS, AND CLIENTS ARE REACTING WITH CRIES OF “DON’T INCREASE OUR FEES!” AND “WE DON’T WANT TO PAY TO EDUCATE YOUR ASSOCIATES; WE’LL DEAL ONLY WITH PARTNERS!”

All of this turmoil brings up an age-old question for lawyers—all businesses in fact: when and how can prices be raised. Regardless of whether increasing associate salaries impacts you directly or not, now is a good time to take a look at the hows and whys of raising your billing rates.

WHEN?

The best time to raise your fees is when the economy is hot, you’re busy and you have a lot of work. This goes beyond the simple idea that you can afford to lose a few peas when the plate is full. What will happen is that you will set a chain of events in motion that will alter and hopefully improve your practice.

Depending on your geographic location and your practice area, accept the fact that some clients will leave if fees are raised. This can create several opportunities: (1) With a reduction in client base, you will be able to work less at the same average revenue; (2) to replace the defecting clients, you can take on new clients at the new, higher rate, which raises your average revenue per client; or (3) you will generally receive—or only agree to take on—more interesting work at the higher rates.

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In reality, of course, a combination of all three scenarios will come into play to forever change your practice. The bottom line is that, like water flowing in to fill a hole in the sand, a temporary loss in the total number of clients will soon restabilize, and at a higher level of income.

(NOTE: While this discussion clearly applies to hourly and fixed-fee billing methods, it is also appropriate for contingency matters and for value billing.)

How Much?

All other things being equal, the smaller the fee increase, the easier it is to accept. Adding 3-5 percent (roughly \$10 or \$15 for the average large-city attorney) to an hourly fee is not going to turn off many clients. Don't forget: to the average client, there is little price sensitivity in choosing a lawyer. That is, the choice is made not because of the fee being charged, but because of other factors such as the perception of your legal ability. Usually, the client is in your office because of a referral from a trusted source. Only if the fee difference is very significant (e.g., \$50 per hour or more) will the client decide to go elsewhere. That's why testing the increase is always a good idea.

The corollary to the above rule of thumb is: increase fees more frequently by a smaller amount. The last

Success tends to build on itself, and the results of a wrong decision can be more easily overcome.

- **Your Strategic Plan:** How much you raise rates is partly a function of your strategic plan and your desired position in the market. Do you want to be known as the low-priced volume leader or a top-of-the-line, exclusive provider?
- **The Nature of Your Practice and Clientele:** Economically sound clients will accept increases more readily and will be less burdened by them.
- **The General Economy:** A strong, robust economy will see less resistance than a retreating economy.
- **The Competition:** Your rates must be competitive with others in your geographic or practice area. You must know the current market conditions and the competitive pressures on legal fees. Each market is local and has its own characteristics. National trends are interesting, but not necessarily important to your local situation.

How to Market the Increase

You have decided to raise your rates. Now you have to figure out the best way to sell or "market" the idea, that is to inform clients of the new fees in the most advantageous way. Here are some ideas:

- **To New Clients:** The safest way to introduce an increase in fees is with new clients. Test the waters with clients you don't yet have and therefore aren't as worried about losing. Don't tell them it's an increased rate. Since they're new, they won't know what the old rate was. This is what the rate is, period. No explanations are required.
- **To Newer Existing Clients:** If you continue to be busy, move to the next level by increasing rates on new matters for existing clients who are not your bread and butter. You are required to inform existing clients of any fee increases, and the appropriate way is to amend your engagement agreement. A short note is all that's required and is probably the best way to accomplish this. Long explanations imply uncertainty and apology, when no apology is needed. You can also strengthen your position by using technology to lower costs and increase profits before raising your rates.

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thing you want to do is be panicked into making a big jump in your fees. Plan ahead to raise fees in small increments.

Other factors to consider in deciding how far to raise rates include:

- **Your Growth Pattern:** As you continue to grow, you can afford to be more selective in your clients. Raising fees is a way to let your clients self-select and determine who will get your services rather than you picking whom to serve.
- **Your Success:** When you are successful, achieving more success is easier and less risky.

- **To Major Existing Clients:** Finally, after you're confident with these preliminary forays into higher fees, roll out your new fee structure to all remaining clients. With major clients, always talk personally with them in advance of any formal notice of a fee raise.
- Confirm with clients that a fee increase still fits within their budget for legal services. Doing this highlights your sensitivity to their finances and takes their opinion into account. If they say "no," consider compromising by getting their agreement that you will retain the fee at the current level for a specified time after which they will accept the increase. The time frame could be three or six months or longer, depending on the circumstances. In any case, get their agreement to accept a fee increase at a date certain.
- A good way to soften the blow of a fee increase is to add value to your service. In other words, do more things—that cost less than the increase—for the increased fee. For example, if you do estate planning, you could add financial planning as a service, either as part of the fee package or for a designated added fee. Sometimes, showing that you provide better than excellent service is all that is needed to justify an increase. For example, consider packaging final documents in an attractive folder and hand-delivering them to the client. This improved presentation adds only pennies to your costs, but will probably be perceived as an example of your caring for and nurturing the client.
- An acceptable way to frame the increase is to say that they are due to increased costs, inflation, etc. This works well where costs are increasing in the general economy. Today, this approach may be less accepted by most clients.
- Corporate clients are generally treated differently than individual clients. You must be more sensitive to legal service budgets, and you must be attuned to the politics of the organization and the relationship among you, General Counsel and other management executives. You need to understand where your power base is in the organization and act accordingly.

Ultimately, it is the client's perception of value that determines whether the price is reasonable for the service provided. The value of your service is determined by the client. Another way of saying it is that price is the marketplace's barometer for telling you how it values your service. Price also impacts your profitability. The extent to which you make a profit depends on how much of what you get for your service exceeds your costs of providing that service. If costs have gone up, it's probably time to consider raising your fees.

Edward Poll, J.D., M.B.A., CMC, is a coach to lawyers and certified management consultant who shows attorneys and law firms how to be more profitable. Ed's latest book is Collecting Your Fee: Getting Paid From Intake to Invoice (ABA 2003); he is the author of Attorney & Law Firm Guide to The Business of Law, 2d ed. (ABA 2002); Secrets of the Business of Law: Successful Practices for Increasing Your Profits. To make suggestions or comments about this article, call (800) 837-5880 or send an e-mail to edpoll@lawbiz.com. You can also order a free e-zine or visit Ed on the web at www.lawbiz.com.



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QUESTIONS: RAISING YOUR BILLING RATES: WHEN AND HOW TO DO IT



1. What is the annual salary for first-year associates?

2. True or False: Raising prices or fees is an age-old question, not just for lawyers, but for all businesses.

True False

3. True or False: Accept the fact that some clients will leave if fees are raised.

True False

4. Fill in the blank: To replace the defecting clients, you can take on new clients at the new, higher rate, which
_____.

5. True or False: Raising fees only applies to hourly and fixed-fee billing methods.

True False

6. Fill in the blank: All other things being equal, the
_____ the fee increase, the easier it is to accept.

7. True or False: Adding 3-5 percent (roughly \$10 or \$15 for the average large-city attorney) to an hourly fee is not going to turn off many clients.

True False

8. Fill in the blank: Don't forget: to the average client, there is little price sensitivity in choosing a _____.

9. True or False: An alternative rule of thumb is: increase fees more frequently by a smaller amount.

True False

10. True or False: Raising fees is a way to let your clients self-select and determine who will get your services rather than you picking whom to serve.

True False

11. Fill in the blank: When you are successful, achieving more success is _____.

12. True or False: Your rates must be competitive with others in your geographic or practice area.

True False

13. True or False: The safest way to introduce an increase in fees is with old, established clients.

True False

14. Give one acceptable method to inform existing clients of any fee increases. _____

15. Fill in the blank: With major clients, always
_____ in advance of any formal notice of a fee raise.

16. Fill in the blank: If clients initially say "no" to a fee increase, consider compromising by getting their agreement that you will _____.

17. True or False: A good way to soften the blow of a fee increase is to add value to your service.

True False

18. True or False: Corporate clients are generally treated no differently than individual clients.

True False

19. Fill in the blank: The value of your service is determined by the _____.

20. True or False: The extent to which you make a profit depends on how much of what you get for your service exceeds your costs of providing that service.

True False